

1970

c 255 Local Improvement Act

Ontario

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CHAPTER 255

The Local Improvement Act

INTERPRETATION

1. In this Act,Interpre-
tation

1. "Board" means the Ontario Municipal Board;
2. "bridge" includes a viaduct, culvert, subway and embankment, and a pavement on a bridge;
3. "clerk" means the clerk of the municipality and includes any officer or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by the clerk;
4. "constructing" and "construction" include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired;
5. "corporation" means the corporation of a municipality;
6. "corporation's portion of the cost" means that part or proportion of the cost of a work that is not to be specially assessed, but is payable by the corporation;
7. "council" means the council of the corporation of a municipality;
8. "county" includes a district;
9. "court of revision" means a court of revision constituted under this Act;
10. "curbing" includes a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter;
11. "engineer" includes an officer or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by an engineer;
12. "frontage", when used in reference to a lot abutting directly on a work, means that side or limit of the lot that abuts directly on the work;
13. "judge of the county court" means the judge or a junior judge of a county or district court;

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14. "lifetime", as applied or applicable to a work, means the lifetime of the work as estimated by the engineer or, in case of an appeal, as finally determined by the court of revision or the judge, as the case may be;
15. "lot" means a subdivision or a parcel of land that by *The Assessment Act* is required to be separately assessed, and "lots" means more than one lot as so defined;
16. "municipality" includes a union of townships, a municipality composed of more than one township, a township, a city, a town and a village, but not a county;
17. "owner" and "owners" means respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but do not include a person who is, or is assessed as, owner where there is a tenant for years of the land who is an owner within the meaning of this clause;
18. "owners' portion of the cost" means that part or portion of the cost of a work that is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work;
19. "pavement" includes any description of pavement or roadway;
20. "paving" includes macadamizing, planking and the laying down or construction of any description of pavement or roadway and the construction of a curbing;
21. "published" means published in a daily or weekly newspaper which, in the opinion of the clerk, has such circulation within the municipality as to provide reasonable notice to those affected thereby, and "publication" has a corresponding meaning;
22. "sewer" includes a common sewer and a drain and two or more sewers connected as a system of sewers;
23. "sidewalk" includes a footway and a street crossing;
24. "specially assessed" means specially rated for or charged with part of the cost of a work;
25. "street" includes a lane, alley, park, square, public drive and public place, or a part of any of them;

26. "value" means the assessed value, exclusive of buildings, according to the last revised assessment roll of the municipality;
27. "watermain" includes two or more watermains connected in a system of waterworks and hydrants;
28. "work" means a work or service that may be undertaken as a local improvement;
29. "work undertaken" means a work that is undertaken as a local improvement. R.S.O. 1960, c. 223, s. 1; 1965, c. 62, s. 1; 1968-69, c. 63, s. 1.

WORKS THAT MAY BE UNDERTAKEN AS LOCAL
IMPROVEMENTS

2.—(1) A work of any of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation as a local improvement: Works that may be undertaken as local improvements

- (a) opening, widening, extending, grading, altering the grade of, diverting or improving a street;
- (b) opening or establishing a new street;
- (c) constructing a bridge as part of a street;
- (d) constructing, enlarging or extending a sewer, including a sewer on each side or on one side only of a street;
- (e) constructing, enlarging or extending a watermain, including a main on each side or on one side only of a street;
- (f) paving a street;
- (g) constructing a curbing, gutter or sidewalk in, upon or along a street;
- (h) constructing or maintaining a boulevard where a part of a street has been set apart for the purposes of a boulevard;
- (i) sodding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street;
- (j) the extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light, including street lighting, heat or power, to the owners of land, for whose benefit the extension is provided;
- (k) in a township where works have been constructed and erected for the supply of electrical power to owners, for constructing and erecting in connection with such works such further works, plant, appliances and equipment as may be necessary for street lighting;

- (l) acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive;
- (m) constructing retaining walls, dykes, breakwaters, groynes, cribs and other shore protection works along the banks of rivers, streams or creeks or along the shores of lakes;
- (n) constructing and erecting on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works that would otherwise be provided at the expense of the corporation at large;
- (o) constructing a roadway or subway under a railway or other roadway;
- (p) subject to section 25, for resurfacing with asphalt or other suitable material a pavement having a foundation that in the opinion of the engineer is sufficient therefor, whether or not the lifetime of the pavement has expired, and, when any work undertaken under this clause is such as might entitle it to a provincial grant, the approval of the Department of Highways shall be first obtained with respect to the suitability of the foundation;
- (q) widening a pavement on a street;
- (r) constructing a retaining wall with or without a sidewalk or pavement on a street. R.S.O. 1960, c. 223, s. 2 (1); 1962-63, c. 75, s. 1.

Repair and
maintenance

(2) Nothing in this section extends or applies to a work of ordinary repair or maintenance. R.S.O. 1960, c. 223, s. 2 (2).

Works
that may
be under-
taken in
connection
with a
pavement,
watermain
or sewer

3.—(1) Where the work is the construction of a pavement or watermain, the council, before proceeding with the work, may construct all works necessary for surface drainage in connection therewith and may make all necessary private drain connections from the main sewer to the street line on either or both sides, and may also lay all necessary water service pipes and stop cocks and make all necessary alterations in the same, and, where gas works are owned by the corporation, the council may lay all necessary gas mains, service pipes and stop cocks and make all necessary alterations in the same, and, where the work is the construction of a sewer, the council may make all necessary private branch drains and connections to the street line on either or both sides; but the cost of a water or gas service or stop cock and any alteration of the same and the cost of a private branch drain and connection shall

be specially assessed only upon the particular lot to serve which it was constructed or effected by an equal special rate per foot of the frontage of such lot.

(2) Where the work is the construction of a pavement, the council may from time to time during the progress of the work, upon the written request of the owner of the lot to be served, provide for the construction, as part of the pavement, of an approach of such width and character as the council may determine from the boundary line of the pavement to the street line, so as to form an approach to a particular lot, and the cost of such approach shall be specially assessed upon the particular lot so served. Construction of approach to lot

(3) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement, sewer or watermain in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection. To be part of work of construction

(4) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or gas service pipe shall be the cost thereof from the centre of the street to the street line, whether or not the sewer or water or gas main is laid in the centre of the street, but this subsection does not apply to private drain connections where a sewer is constructed on each side of a street. R.S.O. 1960, c. 223, s. 3. How to be assessed

4.—(1) Where a sewer, water main or gas main has been or is hereafter constructed, the council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections, water service pipes or gas service pipes from the sewer, water main or gas main to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection, water service pipe or gas service pipe shall be specially assessed upon the particular lot for or in connection with which it is constructed by an equal special rate per foot of the frontage of the lot, and the owners of the land do not have the right of petition provided for by section 12, and the provisions of subsection 4 of section 3 apply. Construction of private drain connections without petition

(2) Where a private drain connection, gas or water service pipe has been constructed by a municipality at the request of the owner of land and the council has not proceeded under subsection 1, the amount due may be inserted in the collector's roll and be collected in the same manner as taxes. R.S.O. 1960, c. 223, s. 4. At request of owner

5. In a township, town or village in unorganized territory, where the owners of land have constructed a work that might have been undertaken as a local improvement, the council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, Purchase by township of works already constructed

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representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under *The Municipal Act*, and the purchase money may be provided by the council and may be assessed in like manner as if the work were a work that the council were undertaking as a local improvement, and all the provisions of this Act apply as if the council were undertaking the work so acquired as a local improvement. R.S.O. 1960, c. 223, s. 5.

Approval of
Board
required in
the case of
certain
works

6.—(1) Where the work is the opening, widening or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed \$50,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and, if such notice is given, the work shall not be undertaken without the approval of the Board.

Approval
may be
withheld

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so, the Board may withhold its approval.

Apportion-
ment of cost
of work

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality, the Board may make an order so declaring, and in that event the council may, notwithstanding the provisions of this Act or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order, as the case may be.

Cost may
be charged
upon
abutting
lots

(4) The Board, instead of making an order under subsection 3, may direct that, if the work is undertaken, such part of the cost of it as the Board may consider just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act, and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and, if the council undertakes the work, it shall conform with the directions of the order.

Special
assessments
by council

(5) The special assessment upon the lots shall not be made by the Board, but by the council, in accordance with this Act. R.S.O. 1960, c. 223, s. 6.

PROCEDURE FOR UNDERTAKING WORK

7.—(1) A by-law may be passed for undertaking a work as a local improvement, Methods of undertaking works

- (a) on petition;
- (b) without petition, on the initiative of the council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause 1 of subsection 1 of section 2;
- (c) on sanitary grounds, as mentioned in section 9; or
- (d) without petition in the cases mentioned in sections 4 and 8.

(2) Instead of passing separate by-laws for each work, the council may pass one by-law in respect of several works. R.S.O. 1960, c. 223, s. 7. One by-law may include several works

8.—(1) Where the council determines and, by by-law or resolution passed at any meeting by a vote of two-thirds of all the members thereof, declares it is desirable that the construction of a curbing, pavement, sidewalk, sewer, watermain or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, or the widening of a pavement, or the extension of a system of water works, or of private drain connections or water service pipes under section 4, should be undertaken as a local improvement, the council may, with the approval of the Board, pass a by-law to undertake the work. Local improvements with approval of Board

(2) Where the undertaking of the work is approved by the Board, no petition required by section 11 is necessary and the owners do not have the right of petition provided by section 12. R.S.O. 1960, c. 223, s. 8 (1, 2). Petition not requisite

(3) Where it is intended to proceed under this section, the council shall not be deemed to proceed on the initiative plan but there shall be published at least once a week for two weeks a notice of intention in Form 2 to apply to the Board for approval of the work being undertaken and any owner may within twenty-one days after the first publication of such notice file with the clerk his objection to the work being undertaken. R.S.O. 1960, c. 223, s. 8 (3); 1961-62, c. 75, s. 1 (1). Notice of application to Board

(4) Instead of publishing a notice as provided in subsection 3, the notice in Form 2 may be sent by prepaid mail to every owner appearing by the last revised assessment roll to be the owner of property that will abut on the work and by publication at least once of the notice in Form 2, and any owner may, within twenty-one days after the publication or mailing of the notice, whichever is the later, file with the clerk his objection to the work being undertaken. 1962-63, c. 75, s. 2. Mailing of notice

Further
notices

(5) The Board may direct such further or other notice or notices in Form 2 or otherwise, to be given by the council, and the Board may make such order with respect to the work as may seem proper.

Work not
to proceed
until
approval
given

(6) The work shall not be undertaken until the approval of the Board to the passing of the by-law therefor has been obtained.

What notice
may
include

(7) The notice in Form 2 when published may relate to and include any number of different works. R.S.O. 1960, c. 223, s. 8 (4-6).

By-law not
to be in
contraven-
tion of
subs. 1

(8) The passing of a by-law to authorize the undertaking of a work under subsection 1 shall not be deemed to be in contravention of subsection 1 if such by-law contains a provision that the by-law shall not take effect until approved by the Board. 1961-62, c. 75, s. 1 (2).

Construc-
tion of
sewer on
recom-
mendation
of health
authority

9. Where the council, upon the recommendation of the Minister of Health or of the local board of health of the municipality, determines and, by by-law passed at a regular or special meeting of the council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer or watermain or of private drain connections or water service pipes under section 4 as a local improvement is necessary or desirable in the public interest on sanitary grounds, the council may undertake the work without petition, and the owners of the land do not have the right of petition provided for by section 12. R.S.O. 1960, c. 223, s. 9.

Notice of
intention

10.—(1) Where it is intended to proceed under section 9, the council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention in Form 1 to be published, and such notice may relate to and include any number of different works.

Objection
to con-
struction

(2) Where the council proceeds with any local improvement under subsection 1, a majority of the owners representing at least one-half the value of the lots that are to be specially assessed therefor, being dissatisfied with the local improvement or with the manner in which it has been undertaken, may apply by petition to the Board for relief, and the Board may thereupon investigate the complaint and make such order with respect to the local improvement as may seem proper, and, after notice to the clerk of the municipality of the application and pending its determination by the Board, the council shall not proceed with the local improvement work.

Sufficiency
of petition

(3) The sufficiency of the petition shall be determined in the manner provided by section 15.

(4) The petition shall be deposited with the secretary of the Board within twenty-one days after the publication of notice of the council's intention to undertake the work.

Filing of
petition

(5) The by-law for undertaking the work shall not be passed until the expiry of such twenty-one days. R.S.O. 1960, c. 223, s. 10.

Time for
passing
by-law

11. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots liable to be specially assessed, provided that, where a petition proposes that any lot be totally exempted from special assessment under section 30, such lot and the owner thereof shall be excluded from computation in ascertaining whether the petition is sufficiently signed. R.S.O. 1960, c. 223, s. 11.

Number of
signatures
to petition
required

12.—(1) Where the council proceeds on the initiative plan, notice of the intention of the council to undertake the work in Form 3 shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed, and, unless within one month after the first publication of the notice a majority of the owners, representing at least one-half of the value of the lots that are liable to be specially assessed, petition the council not to proceed with it, the work may be undertaken as a local improvement.

Notice of
intention
under
initiative
plan

(2) The notice is sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which, the work is to be done, and the number of the instalments by which the special assessment is to be payable.

Contents
of notice

(3) The notice may relate to and include any number of different works.

May cover
different
works

(4) The notice may be served upon the owner,

Manner of
service

(a) personally; or

(b) by leaving it at his place of business or of residence, if within the municipality; or

(c) by mailing it addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality; or

(d) if the place of business and of residence of the owner are not known, by leaving it with a grown-up person on the lot of the owner that is liable to be specially assessed, if there is a grown-up person residing thereon.

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner that is liable to be specially assessed, service upon the owner is not requisite.

Where
residence,
etc.,
unknown

Proof of
publication
and service

(6) Publication and service of the notice may be proved by affidavit or statutory declaration which, before the passing of the by-law by which the special assessment is made to defray the cost of the work, is *prima facie* evidence and, after the passing of the by-law is conclusive evidence of the matters set forth therein. R.S.O. 1960, c. 223, s. 12.

Effect of
petition
against
work

13.—(1) Where the council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under section 12, the council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition; provided that, in a municipality in which a by-law passed under section 70 is in force, the prohibition contained in this section does not prevent the council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Powers
conferred by
section 8
not affected

(2) Nothing in this section prevents the council from exercising the power conferred by section 8. R.S.O. 1960, c. 223, s. 13.

Lot of
petitioner
to be
described

14. There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to identify it. R.S.O. 1960, c. 223, s. 14.

Clerk to
determine
sufficiency
of petition

15.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced is final and conclusive.

What
owners to
be counted

(2) Where the sufficiency of a petition has been determined by the clerk, it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the court of revision or by the judge in the lots to be specially assessed that have the effect of increasing or reducing the number of the lots.

Determining
value of
lots

(3) When it is necessary to determine the value of any lot and the value cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of the lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination is final and conclusive.

Owner
whose name
is not on
roll may
petition

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and, if the person who appears by the assessment roll to be the owner is a petitioner, his

name shall be disregarded in determining the sufficiency of the petition.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition, Case of joint owners

(a) they shall be reckoned as one owner only;

(b) they shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

(6) The clerk, for the purpose of any inquiry pending before him under this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the county court of the county in which the municipality lies. Witnesses

(7) A witness, if a resident of the municipality, is bound to attend without payment of any fees or conduct money and, if not a resident of the municipality, is entitled to fees and conduct money according to the county court scale. Witness fees

(8) Where any person complains to the clerk that his signature to the petition was obtained by fraud, misrepresentation or duress, the complaint shall be investigated and determined by a judge of the county court, and the clerk shall delay certifying until he has received the finding or report of the judge upon the complaint, and in determining as to the sufficiency of the petition the clerk shall give effect to such finding or report. R.S.O. 1960, c. 223, s. 15. Complaints to be investigated by county judge

16. A petition for or against the undertaking of a work shall be lodged with the clerk and shall be deemed to be presented to the council when it is so lodged. R.S.O. 1960, c. 223, s. 16. Petitions to be lodged with clerk

17. No person has the right to withdraw his name from, and no name shall be added to, a petition after the clerk has certified as to its sufficiency. R.S.O. 1960, c. 223, s. 17. Withdrawal of name from petition

18. Where a by-law has been heretofore or is hereafter passed for undertaking any work as a local improvement and the council deems it inadvisable or impracticable to complete the work, the council may, by by-law, amend such by-law and provide for the carrying out of part only of the work mentioned therein or for the substitution in whole or in part of another kind or character of work of the same class as that undertaken in such by-law, but all the provisions of this Act apply to such partial work as if it had been originally undertaken as one entire work or to such substituted work as if it had been the work originally undertaken, but the amending by-law takes effect only on being approved by the Board. R.S.O. 1960, c. 223, s. 18. Power to undertake part of work only

Amend-
ments to
by-laws
respecting
highways

19. After passing a by-law for establishing, extending, widening or diverting a highway, and before completion of the work, the council may apply to the Board for leave to pass an amending by-law providing for a deviation in the course or location of the highway as defined in the original by-law, and the Board may make an order approving of and validating an amending by-law accordingly on such terms and conditions and after such hearing as it may consider proper, and subject to the terms of the order the provisions of this Act apply to such altered work as if it had been provided for in the original by-law. R.S.O. 1960, c. 223, s. 19.

HOW COST OF WORK TO BE BORNE

Frontage
rate

20.—(1) Except as otherwise expressly provided in this Act, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

Items that
may be
included
in cost

(2) The following may be included in the cost of the work:

- (a) engineering expenses;
- (b) cost of advertising and service of notices;
- (c) interest on temporary loans;
- (d) compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the corporation in connection with determining such compensation;
- (e) the estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them.

Case of
widening
pavement

(3) Where the work is the widening of a pavement on a street, the lots on each side of the street shall be deemed to abut directly on the work. R.S.O. 1960, c. 223, s. 20 (1-3).

Construc-
tion of sewer
or water-
main

(4) Where the work is the constructing, enlarging or extending of a sewer or watermain, including a sewer or watermain on each side or one side only of a street, the council may make a reduction in the special assessment of corner lots that would otherwise be chargeable thereon by deducting from the total frontage of a corner lot liable to special assessment the number of feet abutting on the work on the side of the lot or such part thereof as the council may determine. R.S.O. 1960, c. 223, s. 20 (4); 1960-61, c. 49, s. 1.

Deduction
of contribu-
tions from
cost

21.—(1) Where a municipality receives a contribution in cash to be applied towards the cost of any work, the amount of the contribution shall be deducted from the total cost of the work and the balance shall for all purposes be deemed the actual cost of the work.

(2) If the contribution is by way of an annuity, it shall be capitalized and the capitalized value shall be deducted as aforesaid, but the municipality shall nevertheless borrow the full amount of the cost of the work and shall specially assess against the owners of lots their share of the cost ascertained after making the deduction as aforesaid, and the balance of the total cost shall be the corporation's portion of the cost, and the annuity shall be applied in reduction of the annual rate levied to meet the corporation's portion of the cost.

Contribution by way of annuity, how treated

(3) Notwithstanding subsections 1 and 2, where a contribution is to be applied towards any excess cost of a work caused by reason of the work being constructed with a greater capacity than is required for the purposes of the lots abutting on the work, the amount of the contribution shall be applied to reduce the corporation's portion of the cost. R.S.O. 1960, c. 223, s. 21.

Contributions for excess cost of work

22.—(1) Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required.

Guarantee of work

(2) In all municipalities, where such guarantee is required, where any local improvement is undertaken by the corporation and constructed by day labour, the corporation may assess as part of the cost thereof a reasonable allowance to make good any imperfection therein due to materials, workmanship or construction during the lifetime thereof as fixed by the court of revision, the amount of such allowance to be subject to revision by the court of revision. R.S.O. 1960, c. 223, s. 22.

Assessment of allowance to make good imperfections

23. There shall be included in the corporation's portion of the cost,

Corporation's portion of cost

- (a) at least one-third of the cost of a sewer having a sectional area of more than four feet; and
- (b) the entire cost of all hydrants constructed in connection with a watermain and the entire cost of all culverts, catch basins and other works that are provided for surface drainage and that are incidental to the construction of the sewer or pavement; and
- (c) so much of the cost of a work as is incurred at street intersections. R.S.O. 1960, c. 223, s. 23.

Apportionment of cost of sewers

24.—(1) Where the work is the construction of a sewer or watermain, the council may in the by-law for undertaking the work, passed by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer or watermain shall be borne by the corporation.

Part to be borne by corporation

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 23, is to be included in the corporation's portion of the cost. R.S.O. 1960, c. 223, s. 24.

Assumption by corporation of special assessments in certain cases

25. Where the work undertaken is the resurfacing of a pavement as provided by clause *p* of subsection 1 of section 2, the corporation shall assume and pay the special assessments therefor charged against the lots fronting or abutting on the work until the expiration of the period within which such lots are specially assessed for the then existing pavement. R.S.O. 1960, c. 223, s. 25.

Widening costs in certain cases

26. Where the work to be undertaken is the widening of a pavement on a street without a petition, the by-law for undertaking the work shall provide that, in addition to the corporation's portion of the cost including the portions otherwise provided for in this Act, there shall also be included in such portion so much of the cost of the work as is incurred in the construction or reconstruction of the pavement to a width greater than the width of the pavement then existing on the street. R.S.O. 1960, c. 223, s. 26.

Corporation may assume part of cost of sidewalk or pavement

27.—(1) Subject to subsection 3, the council of the corporation of a municipality in which there is not in force a by-law passed under section 70 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as to the council seems proper of the cost of every granolithic, stone, cement, asphalt or brick sidewalk, or of every pavement or curbing or of works, plant, appliances and equipment for street lighting constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation.

Repeal of by-law

(2) Such by-law shall not be repealed except by a vote of three-fourths of all the members of the council.

Assumption of larger share of certain named work

(3) The council, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council and approved by the Board, may provide that the corporation shall assume a larger share of the cost of a certain named work undertaken on a certain named street than is provided in the by-law passed under subsection 1, with reference

to works of the same class, or, where no by-law has been passed under subsection 1, that the corporation shall assume a stated part of the owners' portion of the cost of any certain named work of any one of the classes set out in subsection 1. R.S.O. 1960, c. 223, s. 27.

28.—(1) A reduction in the case of corner lots at the junction or intersection of streets and a reduction or increase in the case of triangular or irregularly-shaped lots shall be made in the special assessment, that otherwise would be chargeable thereon, sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis. 1960-61, c. 49, s. 2.

Special
assessment
of corner
and
irregularly-
shaped lots

(2) Where a lot is for any reason wholly or in part unfit for building purposes, a reduction shall also be made in the special assessment that otherwise would be chargeable thereon sufficient to adjust its assessment as compared with that of the lots fit for building purposes on a fair and equitable basis.

of lots
unfit for
building
purposes

(3) Subject to section 30, where a lot, other than a corner lot, has two limits that abut on works and the size or nature of the lot is such that any or all of the works are not required, a reduction in respect of the works that are not required, so long as they are not required, shall also be made in the special assessment that would otherwise be chargeable thereon, sufficient to adjust its assessment on a fair and equitable basis.

of lots
with two
limits
abutting
on works

(4) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced.

How
reduction
to be made

(5) The amount of any reduction made in the assessment of any lot under the provisions of this section is not chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. R.S.O. 1960, c. 223, s. 28 (2-5).

Reduction
to be
borne by
corporation

29.—(1) Where a local improvement is carried out and an exemption is made of flankage of a lot which flankage later becomes a frontage on the work that has been carried out, the corporation may impose a special assessment of such amount as would have been assessed against such flankage had it been frontage at the time of the passing of the by-law.

Special
assessment
on flankage
that
becomes
frontage

(2) Notice of such assessment shall be given by registered mail addressed to the then registered owner of such flankage.

Notice of
assessment

(3) Any person complaining that the amount of flankage in respect of which the assessment is imposed is incorrect may do so in writing delivered to the clerk of the municipality within ten days of the mailing of the notice under subsection 2, and the clerk

Appeal

of the municipality shall forthwith transmit the same to the court of revision and give to the complainant written notice of the time and place of the hearing of the complaint posted six days prior to the date set therefor, and the court of revision shall consider the complaint and its decision thereon is final and binding. R.S.O. 1960, c. 223, s. 29.

When due
and payable

(4) Where such assessment is so imposed, it is due and payable in equal annual instalments commencing the year when the flankage becomes the frontage on the work, and for such term of years as charges were imposed by the by-law.

Period in
which
charges
payable

(5) The annual assessments imposed or collected under this section shall be limited to those that would fall due during the period of the currency of the debentures issued for such work and five years thereafter and, when collected, shall be credited to the general funds of the corporation. R.S.O. 1960, c. 223, s. 29 (4, 5).

Assessment
for opening
lane

30.—(1) Where the work is the opening, widening, extension, grading or paving of a lane or the construction of a sewer for drainage purposes in a lane, and the council is of opinion that any lot abutting on the work is not benefited by the work, or is not benefited thereby to the same extent as other abutting lots, the council may, in the by-law for undertaking the work, exempt such lot or make a reduction in the special assessment that would otherwise be chargeable thereon by deducting from the total frontage of the lot liable to special assessment so much thereof as is sufficient to make the proper reduction.

Assessment
of cost of
work in
such case

(2) Where such lot is exempted, the amount of the special assessment that would otherwise be chargeable thereon shall be specially assessed against all the other abutting lots and, where a reduction is made, the entire cost of the work shall be specially assessed as if it were the cost with respect to the reduced frontage, but the whole of the lot granted the reduction shall be charged with the special assessment as so reduced.

Board's
approval

(3) None of the works mentioned in subsection 1 shall be proceeded with until the by-law for undertaking the work is approved by the Board. R.S.O. 1960, c. 223, s. 30.

Assessment
of cost of
certain
works

31.—(1) Subject to subsection 2, where the work undertaken is a sidewalk or curbing or a sewer or watermain constructed on one side of a street to serve only the lots on that side, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed.

Assessment
of cost of
sidewalks
on petition

(2) On petition, sufficiently signed, of the owners on both sides of a street praying that a sidewalk be constructed on one side only of the street and that a certain portion not exceeding one-third of the owners' share of the cost be assessed on the lots fronting or

abutting on the other side of the street, the council may specially assess the lands on the other side of the street in conformity with the petition and, if a sidewalk is thereafter constructed on the other side of the street, the owners' portion of the cost shall be specially assessed in like manner. R.S.O. 1960, c. 223, s. 31.

32.—(1) Where the work is the acquisition, establishment, laying out and improving of a park or square or the construction of a bridge or the construction of a sewer or watermain of a larger capacity than is required for the purpose of the abutting land, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the construction of any work mentioned in clause *m* or *r* of subsection 1 of section 2, and the council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the council may, in the by-law for undertaking the work passed by a vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost as to the council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefited by the work.

Apportionment of cost of a bridge, the opening of a street, etc.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 20, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 37 and 38. R.S.O. 1960, c. 223, s. 32.

Method of assessment

33. Where the land abutting directly on any work undertaken as a local improvement is a right of way for a railway or for the transmission of electrical power, the council may exercise the powers conferred by subsection 1 of section 32 with respect to that part of the cost that would otherwise be specially assessed against such right of way. R.S.O. 1960, c. 223, s. 33.

Assessment of right of way of railway, etc.

34. Where the work is the construction of a sewer and it is necessary to construct an outlet for the sewage, and the lands fronting or abutting on or through which the outlet is constructed are not benefited or served thereby, the cost of the outlet shall be deemed to be a part of the cost of the sewer and shall not be specially assessed against the lands fronting or abutting on the outlet or through which the outlet is constructed. R.S.O. 1960, c. 223, s. 34.

Assessment of cost of outlet for sewage

35. Where the work is the construction of a sewer that is an outlet for sewage from lands not abutting directly upon the work or is the installation and construction of sewage pumping works,

Assessment of cost of outlet or pumping works

force mains, siphons and other pumping facilities necessary for a sewer or sewer system in carrying away sewage from lands not abutting directly upon the works, the council may, in the by-law for undertaking the work passed by a vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost of the work as to the council may seem just, and that the residue thereof shall be specially assessed on the lands not abutting on the work but immediately benefited thereby in the manner provided by sections 37 and 38. R.S.O. 1960, c. 223, s. 35.

Compensation by reducing assessment

36.—(1) Where the work of acquiring, establishing, opening, widening, extending or diverting a street involves the taking of a portion of a lot abutting on the work, or of one or more of a number of lots or contiguous lots owned by the same person, the council may agree with the owner that, in consideration of the dedication or gift of the land required to be taken or a release of or reduction in the owner's claim for compensation, the remainder of his lot or his remaining lots, as the case may be, shall be charged with no part or a specified portion or proportion only of the special assessment that would otherwise be chargeable thereon in respect of the cost of the work, and the special assessment roll shall be prepared in conformity with such agreement notwithstanding anything to the contrary in this Act.

Appeal

(2) An appeal lies to the court of revision and to the county judge from the action of the council in like manner as an appeal lies under the provisions of this Act with regard to the cost of a work undertaken. R.S.O. 1960, c. 223, s. 36.

Assessment of non-abutting land equally benefited

37. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. R.S.O. 1960, c. 223, s. 37.

Assessment of non-abutting land unequally benefited

38. Where land not abutting directly upon a work is to be specially assessed, and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit so that a district or section shall embrace all the land that will be benefited in the same proportion, and its proper proportion of the cost shall be assigned to each district or section, and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. R.S.O. 1960, c. 223, s. 38.

39.—(1) Where a by-law has been passed providing for the undertaking of a work and lands that are assessed in one block and are or are to be specially assessed become subdivided, the council of the corporation with the approval of the Board may,

Special
assessment
of land
assessed in
block that
becomes
subdivided

- (a) amend the by-law for undertaking the work to define such lands so assessed in one block as an area; and
- (b) provide that the special assessments that would have been assessed against such lands, including all or part of any assessments that would otherwise become part of the corporation's share by reason of any new street provided for in such subdivision,
 - (i) shall be assessed and levied on the rateable property in the area, or
 - (ii) shall be assessed and levied in whole or in part upon the new lots fronting or abutting on the work and that the balance, if any, shall be assessed and levied on the rateable property in the area.

(2) Where a by-law is amended under subsection 1, the special assessment roll with respect to such area shall be amended by entering in accordance with section 41 every lot in the area to be specially assessed under this section.

Amendment
of special
assessment
roll

(3) Section 44 applies *mutatis mutandis* to the special assessments made under this section. R.S.O. 1960, c. 223, s. 39.

Holding
court of
revision

PROCEDURE FOR MAKING SPECIAL ASSESSMENT

40.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the council shall cause to be made,

Where all
of owners'
portion
assessed on
abutting
land

- (a) a report as to the lifetime of the work;
- (b) a report as to the reductions, if any, which ought to be made under section 28 in respect of any lot and the aggregate amount of such reductions;
- (c) an estimate of the cost of the work;
- (d) a statement of the share or proportion of the cost that should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) a report as to the number of instalments by which the special assessment should be made payable.

(2) In the case of a work, part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports and estimate mentioned in subsection 1, the council shall cause a further report to be made, stating,

Non-
abutting
land

- (a) whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work; and
- (b) if inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it.

Lifetime of
work of
widening
pavement

(3) Where the work is the widening of a pavement that has been constructed as a local improvement and the lifetime of which has not expired, the unexpired portion of the lifetime of the pavement so constructed shall be the lifetime of the work. R.S.O. 1960, c. 223, s. 40.

Special
assessment
roll

41. Before a special assessment is imposed, the council shall cause a special assessment roll to be made, in which shall be entered,

- (a) every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) every lot that, but for section 63, would be exempt from the special assessment and the number of feet of its frontage;
- (c) the rate per foot with which each lot is to be so assessed;
- (d) the number of instalments by which the special assessment is to be payable. R.S.O. 1960, c. 223, s. 41.

How
reports,
statements,
etc., to be
made

42. The council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in sections 40 and 41 in such manner and by such officer of the corporation or person as the council may consider proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. R.S.O. 1960, c. 223, s. 42.

Court of
revision

43.—(1) The court of revision shall consist of three or five members appointed by the council of the municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide.

Qualifica-
tion

(2) Every such member shall be a person eligible to be elected a member of the council or shall be a member of the council. 1968-69, c. 63, s. 2.

44.—(1) Before a special assessment is imposed, a sittings of the court of revision for the hearing of complaints against the proposed special assessment shall be held. Holding of court of revision

(2) Ten days notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice in Form 4 shall be mailed to the owner of every lot that is to be specially assessed. R.S.O. 1960, c. 223, s. 43. Time and place

45. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the court of revision. R.S.O. 1960, c. 223, s. 44. Roll to be kept open for 10 days

46. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the clerk, assessment commissioner, treasurer or deputy or assistant treasurer of the municipality, shall be delivered to the chairman of the court of revision before the meeting of the court. R.S.O. 1960, c. 223, s. 45. Statement of cost of work for court of revision

47.—(1) In ascertaining the actual cost of the work under section 46 where, in the opinion of the engineer and assessment commissioner or treasurer, the cost of any unfinished portion of the work and any unsettled claims for lands taken for or injuriously affected by the work will not exceed in amount 25 per cent of the total estimated cost of the work, the engineer and assessment commissioner or treasurer may estimate the cost of such unfinished work, and the amount of all such claims, and the amount may be included in the actual cost to be ascertained and certified under section 46, and shall be deemed to be the correct amount thereof subject to any order made with reference thereto by the court of revision. Estimate of cost of unfinished work and unsettled claims

(2) If the cost of such unfinished work and unsettled claims exceeds the amount so estimated by the engineer and assessment commissioner or treasurer, the excess over the estimated amount shall be borne by the corporation. Where estimate deficient

(3) If the cost of such unfinished work and unsettled claims is less than the estimated cost, the balance remaining in the hands of the municipality shall be applied *pro tanto* to payment of the rates to be levied under the by-law. R.S.O. 1960, c. 223, s. 46. Where estimate excessive

48.—(1) The court of revision has jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters: Powers of court

- (a) where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work,

- (i) the names of the owners of the lots,
 - (ii) the frontage or other measurements of the lots,
 - (iii) the amount of the reduction to be made under section 28 in respect of any lot,
 - (iv) the lots which, but for section 63, would be exempt from special assessment,
 - (v) the lifetime of the work,
 - (vi) the rate per foot with which any lot is to be specially assessed, and
 - (vii) the exemption or amount of reduction to be made under section 30 in respect of any lot;
- (b) where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in clause a, as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear;
- (c) in all cases as to the actual cost of the work.

No power to alter proportions of cost

(2) The court of revision does not have jurisdiction or authority to review or to alter the proportions of the cost of the work that the lands to be specially assessed and the corporation are respectively to bear according to the provisions of the by-law for undertaking the work. R.S.O. 1960, c. 223, s. 47.

Power to reduce special assessment where gross error

49. Notwithstanding subsection 2 of section 48, the court of revision at any time after the certification of the special assessment roll may reduce any special assessment for the current year and the remaining years of the debenture debt by reason of any gross or manifest error and the amount by which any owner's share of the cost of a work is reduced shall be added to the corporation's share of the cost. R.S.O. 1960, c. 223, s. 48.

Omission to assess certain lots

50.—(1) Where it appears to the court of revision that any lot that has not been specially assessed should be specially assessed, before finally determining the matter, the court shall adjourn its sittings to a future day and shall cause notice in Form 4 to be given to the owner of the lot of the time and place when the adjourned sittings will be held.

Time for mailing notice

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

Power to fix special assessment of lots

(3) If the court of revision determines that any such lot ought to be specially assessed, the court has jurisdiction and power to fix and determine the amount of the special assessment thereon. R.S.O. 1960, c. 223, s. 49.

51. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the court of revision, and the roll when so corrected shall be certified by the clerk, and, when so certified, except in so far as it may be further amended on appeal to the judge, the assessment roll and the special assessment are valid and binding upon all persons concerned and upon the land specially assessed, and the work in respect of which the special assessment roll has been made and certified shall be conclusively deemed to have been lawfully undertaken and proceeded with pursuant to and in accordance with this Act. R.S.O. 1960, c. 223, s. 50.

When
special
assessment
roll to be
final

52.—(1) The council or the owner of a lot specially assessed may appeal to the judge of the county court from any decision of the court of revision. R.S.O. 1960, c. 223, s. 51 (1).

Appeal to
county
judge

(2) The provisions of *The Assessment Act* as to appeals to the judge apply to an appeal under subsection 1, except that, in the case of an appeal by the owner of a lot specially assessed, the notice of appeal shall be given to the clerk of the municipality in lieu of the assessment commissioner. R.S.O. 1960, c. 223, s. 51 (2); 1961-62, c. 75, s. 2.

Application
of
R.S.O. 1970,
c. 32

(3) The judge has the like jurisdiction and powers as are conferred on the court of revision by section 48, and the provisions of section 50 apply where it appears to the judge that any lot not specially assessed ought to be so assessed.

Powers
of judge

(4) Any further appeal lies from the decision of the judge to the Board or the Court of Appeal in the same manner as an appeal from a decision of a county judge under *The Assessment Act*, and the provisions of that Act with respect to an appeal from a county judge apply *mutatis mutandis*. R.S.O. 1960, c. 223, s. 51 (3, 4).

Further
appeal

BORROWING POWERS

53.—(1) The council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it.

Temporary
loans

(2) The council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to repay such advances and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

Issue of
debentures

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, no sewer in the system shall for the purposes of subsections 1 and 2 be deemed to be completed until all the sewers in the system are completed, and

When
sewage
works
deemed
to be
completed

there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time.

Application
of
R.S.O. 1970,
c. 284

(4) The provisions of *The Municipal Act* as to by-laws for creating debts apply to by-laws passed under subsection 2, except that it is not necessary,

- (a) that the by-law be submitted to or receive the assent of the electors;
- (b) that any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it,

and except that the debentures, save as provided by section 56, shall be payable within the lifetime of the work.

Special
fund for
payment of
debentures

(5) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose.

General rate
to meet
deficiency
in special
rate

(6) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represents the owners' portion of the cost, the council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this does not relieve the land specially assessed from the special rate thereon.

Owners'
portion not
to be
deemed part
of debenture
debt of
corporation

(7) The amount borrowed under subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of the provisions of *The Municipal Act* limiting the borrowing powers of the municipality.

Corpora-
tion's por-
tion may
be included
in yearly
estimates

(8) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken, the council may include the same in the estimates of the year.

Disposal of
excess sums

(9) When the amount realized from the debentures exceeds the amount of the cost of the work, the excess sum shall be applied in the manner provided in subsection 2 of section 313 of *The Municipal Act*, unless all the rates have been levied under the by-law, in which case the excess sum shall be paid *pro tanto* to the owners, at the time such payment is made, of the land on which the rates were levied.

(10) Subsection 9 does not apply to a by-law passed prior to the 1st day of January, 1941. R.S.O. 1960, c. 223, s. 52.

Application
of subs. 9

54.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 53 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Consolidation
of
by-laws

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Recitals

(3) It is not necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Rates not to
be imposed
by consoli-
dating
by-law

(4) A consolidating by-law passed under subsection 1 may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums that would have been raised under the separate by-laws had no consolidating by-law been passed. R.S.O. 1960, c. 223, s. 53.

Consolidating by-law may authorize debentures of different terms of years

55. Instead of passing a by-law under section 53 in respect of each individual work, a council may pass one by-law in respect of several local improvement works giving in such by-law in respect of each work substantially the same information as would be given in several by-laws respecting such works, and may provide in such by-law for borrowing the aggregate cost of the several works and for issuing one series of debentures therefor. R.S.O. 1960, c. 223, s. 54.

One by-law
for several
works

56.—(1) The council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the council shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause 1 of subsection 1 of section 2, in which case the annual instalments may extend over a period of not more than forty years.

Term of
annual
instalments
of special
assessment

(2) In fixing the amount of the annual instalments, a sum sufficient to cover the interest shall be added.

Interest

Commuta-
tion of
special
rates

(3) The council may also, either by general by-law or by a by-law applicable to the particular work, prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. R.S.O. 1960, c. 223, s. 55.

Time special
or general
rate may be
levied

57. Any special or general rate imposed by a by-law providing for the issue of debentures to pay for the cost or part of the cost of a work undertaken under this Act may be levied by the council as soon as the by-law is passed and no such rate heretofore or hereafter levied shall be held to be illegal by reason of the debentures in respect of which the rate is levied, or any of same, not having been issued at the time of levying the rate. R.S.O. 1960, c. 223, s. 56; 1960-61, c. 49, s. 3.

Application
of
R.S.O. 1970,
c. 284

58. The provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply to the special assessments and the special rates imposed for the payment of them. R.S.O. 1960, c. 223, s. 57, *amended*.

Where by-
law quashed
court may
direct pass-
ing of new
by-law

59.—(1) If the special assessment in respect of it has become confirmed under section 51, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall, on such terms and conditions as to costs and otherwise as may be deemed proper, direct the council to amend or to repeal the by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it is the duty of the council to pass such by-law or by-laws accordingly.

Liabilities
incurred to
be binding

(2) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law is as effectual and as binding as if the amending or new by-law directed to be passed had been passed and was in force at the time the liability or obligation was incurred or the debenture was issued.

Where
council of its
own motion
directs
passing of
new by-law

(3) Although no proceeding has been taken to quash, set aside or declare invalid the by-law, the council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the by-law shall pass such amending or new by-law as may be necessary to make effectual and binding the liability so incurred and any debenture issued under the authority of such by-law, and the provisions of subsection 2 as to the effect of an amending or new by-law apply to any by-law so passed. R.S.O. 1960, c. 223, s. 58.

REPAIR OF WORK

60.—(1) When a work has been completed, it shall be kept in repair and maintained and may be renewed or replaced at the expense of the corporation and the corporation may by by-law provide for the issue of debentures for such renewal or replacement.

Repair,
maintenance
and replace-
ment of
works

(2) Nothing in this Act relieves the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under *The Municipal Act*, or otherwise, or impair or prejudicially affect the rights of any person who is damnified by reason of the failure of the corporation to discharge such duty or obligation. R.S.O. 1960, c. 223, s. 59.

General
duty to
repair not
affected
R.S.O. 1970,
c. 284

61.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so, does not put the work in repair, a judge of the Supreme Court, or the judge of the county court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair.

Compelling
corporation
to repair

(2) The judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may consider proper.

Determina-
tion as to
necessary
repairs

(3) Where a person under whose supervision the repairs are to be made is appointed, the judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

Remunera-
tion of
person
supervising

(4) The order has the same effect and may be enforced in like manner as a peremptory mandamus.

Effect of
order

(5) If the corporation does not comply with the order of the judge, in addition to any other remedy to which the applicant for the order may be entitled, the judge may authorize the repairs to be made by the applicant and, if made by him, the cost thereof shall be ascertained and determined by the judge, and, when so ascertained and determined, payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

When
repairs may
be made by
applicant
and
payment
therefor

(6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1960, c. 223, s. 60.

Appeal

ASSESSMENT OF LAND EXEMPT FROM TAXATION

Certain
lands
exempt
from
taxation
liable to be
specially
assessed
R.S.O. 1970,
cc. 424, 32

62. Land on which a church or place of worship is erected or that is used in connection therewith, the land of a university, college or seminary of learning, whether vested in a trustee or otherwise and the land of a board of an elementary or secondary school, as defined in *The Schools Administration Act*, is liable to be specially assessed for local improvements, notwithstanding the provisions of *The Assessment Act*. 1968-69, c. 63, s. 3.

Land
exempt from
taxation for
local im-
provements
to be
specially
assessed

63. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes, except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon that fall due while such land remains exempt are not collectable from the owner thereof, but shall be paid by the corporation. R.S.O. 1960, c. 223, s. 62.

STREET CLEANING, ETC.

Cleaning,
watering,
lighting
streets, etc.

64.—(1) The council may by by-law provide that thereafter the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or any one or more of such services, shall be specially assessed upon the land abutting directly on the street according to the frontage thereof, and the foregoing provisions of this Act do not apply to such services.

Street
lighting,
apportion-
ment of cost

(2) As to any of the services mentioned in subsection 1, the by-law may provide that a part of the annual cost may be assessed upon the lands abutting directly on the street and that the remainder of such cost shall be assumed by the corporation at large.

Application
to defined
areas

(3) Instead of naming the particular street or streets, the by-law may apply to all the streets in a defined section or sections of the municipality.

Special rate

(4) Where the council so provides, the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration
of by-law

(5) The by-law remains in force from year to year until repealed. R.S.O. 1960, c. 223, s. 63.

Power to
construct
works on
boundary
lines

65.—(1) Where a highway forms the boundary between two or more municipalites, although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree,

(a) to undertake in respect of the highway or any part of it

any work or service that may be undertaken as a local improvement under this Act;

- (b) as to the council by which the work or service shall be undertaken;
- (c) as to whether the corporation's portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year;
- (d) as to the proportions in which the corporation's portion of the cost shall be borne by such corporations respectively.

(2) The council of the municipality that according to the agreement is to undertake the work or service, hereinafter called the initiating council, has all the powers and shall perform all the duties in respect of it that may be exercised or are to be performed by the council of a municipality that undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council.

Powers and duties of initiating council

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates to defray the owners' portion of the cost, deliver or transmit by registered mail to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Certified copies of by-law to be sent to clerks of other municipalities

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality, other than that by the council of which the by-law is passed, shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council.

Collection of rates in other municipalities

(5) The corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to the last-mentioned corporation the sums that are to be levied and collected in that year under subsection 4, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment over to initiating council

(6) Such payment does not relieve any land specially assessed from the special rate thereon, but it remains liable for the special rate until it is paid.

Payment not to relieve land assessed

(7) Where the agreement provides that the corporation's portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by

Payment over where corporation's portion included in estimates

the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporation's portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation that is to pay it.

Where
corpora-
tion's
portion met
by issue of
debentures

(8) Where the agreement provides that the amount required to defray the corporation's portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall, in each year during the currency of the debentures issued for the money borrowed, pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporation's portion of the cost, and the amount that the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Maintenance
and repair

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them. R.S.O. 1960, c. 223, s. 64.

Construction
of bridge
over ravine
separating
municipal-
ities

66.—(1) Where a ravine separates the lands of adjoining municipalities and it is deemed desirable to construct a bridge connecting the lands of the municipalities, the council of either municipality may pass a by-law for undertaking the work of constructing the bridge or of constructing the bridge combined with any other work that may be undertaken as a local improvement, and the provisions of this Act apply except that, subject to subsections 2 and 3, no part of the cost of the work shall be assessed upon lands in the other municipality.

Agreement
with other
municipality
as to pro-
portion of
cost to be
borne by it

(2) Where lands that will be benefited by the work lie within the limits of any municipality other than the initiating municipality, the council of the initiating municipality may agree with the council of the other municipality as to the proportion of the cost of the work to be borne by the corporation of the municipality and the lands within it, and such last-mentioned council may pass a by-law for the issue of debentures for the amount of such proportion, payable within such period not exceeding twenty years as the council may determine, and it is not necessary that the by-law be submitted to the vote of the electors.

Powers of
other muni-
cipality to
specially
assess land

(3) The council of such other municipality may proceed under this Act for the purpose of assessing the lands within it, that will be benefited by the work, their proper proportion of the amount that it has agreed to contribute to the cost of the work in the same way as if the work had been undertaken by such council and the amount to be so contributed were the cost of the work, and the proceedings shall be in accordance with the provisions of this Act. R.S.O. 1960, c. 223, s. 65.

SPECIAL PROVISIONS AS TO TOWNSHIPS, TOWNS,
VILLAGES, ETC.

67. In addition to the works authorized to be undertaken in section 2, the council of a township or village may undertake as a local improvement the construction, renewal or replacement of water works, the laying of mains and other appliances to connect with any existing system of water works, whether owned by the corporation or any other person, the construction of sewage treatment works, or the construction of such works, plant, appliances and equipment as may be necessary for street lighting. R.S.O. 1960, c. 223, s. 66.

Additional
works in
townships
and villages

68.—(1) The council of a municipality may, in the by-law for undertaking any work as a local improvement, define an area in the municipality and provide that the cost of the work including debenture charges and the cost of maintenance and management of the work including the cost of the utility supplied shall be assessed and levied on the rateable property in the area. 1960-61, c. 49, s. 4.

Assessment
of cost of
works in
areas

(2) Where the work is the construction of a watermain, sewer, sidewalk, curb, pavement or street lighting, the by-law may provide that the whole or a part of the cost of the work shall be assessed upon the lots fronting or abutting on the work and in such case the balance of the cost including debenture charges, if any, and the cost of maintenance and management including the cost of the utility supplied shall be assessed and levied on the rateable property in the area.

Assessment
of cost of
certain
works

(3) The corporation may by by-law provide for the issue of debentures for any work undertaken under this section.

Debentures

(4) Where a local improvement area is defined under this section and the by-law provides that the cost of the work shall be assessed and levied on the rateable property in the area, it is not necessary to serve notice of intention to construct the work upon the owners of lots in the area. R.S.O. 1960, c. 223, s. 67 (2-4).

Notice of
intention
unnecessary

69. Where a local improvement area is defined under section 68, the area may by by-law, subject to the approval of the Board, be enlarged, reduced, altered, dissolved or amalgamated with any other such area and in such case the Board shall make any necessary adjustments of the assets and liabilities of the areas affected. R.S.O. 1960, c. 223, s. 68.

Alteration,
etc., of
areas

ADOPTION OF LOCAL IMPROVEMENT SYSTEM

70.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with *The Municipal Act*, may provide that all works that may be undertaken as local improvements, or any one or more classes or descrip-

Adoption of
local im-
provement
system
R.S.O. 1970,
c. 284

tions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise.

Repeal of
by-law

(2) The by-law may be repealed, but only by a by-law passed with the like assent.

Renewal or
replacement
of local
improvement
works

(3) Notwithstanding subsection 1, the council of a corporation may by by-law provide for the renewal or replacement of any local improvement work at the expense of the corporation, or partly at the expense of the corporation and partly as a local improvement, or wholly as a local improvement. R.S.O. 1960, c. 223, s. 69.

MISCELLANEOUS

Special
rates and
covenant
against en-
cumbrances

71. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against encumbrances, or for the right to convey, or for quiet possession free from encumbrances, be deemed to be an encumbrance upon the land upon which the special rate is charged or chargeable. R.S.O. 1960, c. 223, s. 70.

When work
may be
completed

72. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. R.S.O. 1960, c. 223, s. 71.

Board may
prescribe
forms

73. The Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto, but the use of such forms is not obligatory. R.S.O. 1960, c. 223, s. 72.

FORM 1

(Section 10)

Take notice that

1. The council of The Corporation of the of intends to construct as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation. The estimated cost per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. A petition to the council will not avail to prevent its construction, but a petition against the work or the manner in which it has been undertaken may be made, pursuant to section 10 of *The Local Improvement Act*, to the Ontario Municipal Board, by a majority of the owners representing at least one-half of the value of the lots that are to be specially assessed therefor.

4. A by-law for undertaking the work will be considered by the council at a meeting thereof to be held on the day of, 19....., or at a regular or special meeting thereof to be held thereafter.

Dated

Clerk

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.)

R.S.O. 1960, c. 223, Form 1.

FORM 2

(Section 8)

Take notice that

1. The council of The Corporation of the of intends to construct as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation. The estimated cost per foot frontage is \$..... The special assessment is to be paid in equal annual instalments and the estimated annual rate per foot frontage is cents.

3. Application will be made by the Corporation to the Ontario Municipal Board for its approval of the undertaking of the work and,

- (a) where this Form is published under subsection 3 of section 8 of *The Local Improvement Act*, any owner may within twenty-one days after the first publication of this notice file with the clerk his objection to the work being undertaken; or
- (b) where this Form is mailed and published under subsection 4 of the said section 8, any owner may within twenty-one days after the publication or mailing of the notice, whichever is later, file with the clerk his objection to the work being undertaken.

4. The Board may approve of the work being undertaken, but before doing so it may appoint a time and place when any objections to the work will be considered.

Dated Clerk

(Note.—Where it is intended to assess part of the cost upon non-abutting land, the form of notice is to be amended to show the cost per foot frontage and the annual frontage rate to be charged against such lands.)

R.S.O. 1960, c. 223, Form 2; 1962-63, c. 75, s. 3.

FORM 3

(Section 12)

Take notice that

1. The council of The Corporation of the of intends to construct (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation, and the estimated cost per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the day of 19.....

Dated Clerk

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.*)

R.S.O. 1960, c. 223, Form 3.

FORM 4

(Section 44 (2), 50 (1))

Take notice that

1. The council of The Corporation of the of has constructed as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work has been constructed*).

2. The cost of the work is \$..... of which \$..... is to be paid by the Corporation. The special rate per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is years.

4. A court of revision will be held on the day of 19....., at o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint that persons interested may desire to make and that is by law cognisable by the court.

(*or where the court of revision proceeds under section 50*)

5. You are served with this notice because the court of revision is of opinion that your lot, though not specially assessed, should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the court will be held on the day of 19....., at o'clock at the (*insert place of meeting*) when the matter will be determined by the court.

Dated Clerk

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.*)

R.S.O. 1960, c. 223, Form 4.

